

REMARKS/ARGUMENTS

By this Amendment, claims 18 and 15 are amended and claims 16, 17 and 19 are canceled. Claim 34 has been added.

Rejections under 35 U.S.C. §102

The Examiner has rejected claims 15-17 and 19 as being either anticipated by Briand (US 5,508,033; hereinafter referred to as "Briand") or obvious over Briand in that the intended use of these claims do not materially change the composition and therefore hold no patentable weight since these are composition claims. Applicants traverse this rejection. Applicants have amended claims 15 and 18, canceled claims 16-17 and added new claim 34 and believe that claims 15, 18 and 34 are patentable over Briand.

Claims 15 and 34, which is dependent on 15, are product-by-process claims. Not only does the method of producing the compositions differ from that of Briand but the compositions covered by those claims will also differ from that of Briand. In the instant invention, the antiviral composition is prepared by water extraction. In contrast, the composition of the Briand patent is produced by a 10% isopropanol extraction. The two solvents differ widely from each other in what they will extract from a plant. As shown in Eloff (See Exhibit A, J. Ethnopharmacology, 1998), different extraction solvents for isolating compounds from plants yield extremely varied results. Table 3 of Eloff shows that the number of compounds extracted, the number of inhibitors extracted and the toxicity varied greatly between a 10% alcohol extraction and water extraction in different plants. Therefore, Applicant respectfully believes that the amendments obviate the Examiner's §102 and §103 rejections to claims 15 and 34.

Claim 18 is a claim to a composition neither anticipated nor made obvious by Briand. Briand does not teach the use of that composition in a 200 mg dosage. Limiting the composition to 200 mg imparts patentable weight to the composition, sufficient to overcome the §102 and §103 rejections.

Entry of this Amendment is proper under 37 C.F.R. §1.116 because the Amendment: (a) places the application into condition for allowance (for reasons discussed herein), (b) does not raise any new issues requiring further search and/or consideration (because the Amendment is directed to subject matter previously

Reply to Office Action Dated March 19, 2004

considered during prosecution), (c) does not present any additional claims without canceling a corresponding number of finally rejected claims, and (d) places the application into better form for appeal, should an appeal be necessary. Applicants respectfully request entry of the Amendment.

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.

September 20, 2004

By Allan H. Fried

Allan H. Fried
Registration No. 31, 253
Customer No. 03000
(215) 567-2010
Attorneys for Applicants

Please charge or credit our
Account No. 03-0075 as necessary
to effect entry and/or ensure
consideration of this submission.